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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,828	05/22/2001	Neil W. Taylor	971-128	8874
24256	7590	12/21/2004	EXAMINER	
DINSMORE & SHOHL, LLP 1900 CHEMED CENTER 255 EAST FIFTH STREET CINCINNATI, OH 45202			SON, LINH L D	
			ART UNIT	PAPER NUMBER
			2135	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .	Applicant(s)
	09/862,828 Examiner Linh Son	TAYLOR, NEIL W. Art Unit 2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 May 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-22 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05/22/01</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities: Claim 2 is written in a dependent claim, but it fails to point out its dependency. However, Examiner assumes that it can only be depending to claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-22 rejected under 35 U.S.C. 102(e) as being anticipated by Tate et al, US Patent No. 599774, hereinafter '774.**

3. As per claim 1, “a method for validating executable code resident in an operating system having executable instructions, comprising the steps of: receiving a score associated with an executable code when the executable code is initially loaded into an operating system; saving the score; and receiving a subsequent score on the executable code and comparing the subsequent score to the saved score to determine

if the executable code has been modified" is taught in '774 (Col 3 lines 10-45, and Col 5 lines 10-43).

4. As per claim 2, "the method of claim 1, further comprising the steps of : unloading the executable code from the operating system if the saved score is not equal to the subsequent score" is taught in '774 (Col 5 lines 10-43 and Col 8 lines 1-10)
5. As per claim 3, "the method of claim 1, further comprising the steps of: disabling at least a portion of the executable code if the saved score is not equal to the subsequent score" is taught in '774 (Col 5 lines 35-43).
6. As per claim 4, "the method of claim 1, wherein the scores are the result of a checksum calculation" is taught in '774 (Col 3 lines 38-45).
7. As per claim 5, "the method of claim 1, further comprising the steps of: receiving one or more additional scores periodically on the executable code" is taught in '774 (Col 8 lines 1-10).
8. As per claim 6, "the method of claim 5, further comprising the steps of: disabling at least a portion of the executable code if the saved score is not equal to any of the additional scores" is taught in '774 (Col 5 lines 10-43, and Col 8 lines 1-10)

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9. As per claim 7, "the method of claim 1, further comprising the steps of: notifying electronically an owner of the executable code if the saved score is not equal to the subsequent score" is taught in '774 (Col 5 lines 35-43, and Col 8 lines 1-10).

10. As per claim 8, "a method for disabling executable code, which has been modified without authorization having executable instructions, comprising the steps of: receiving a score associated with an executable code; receiving one or more subsequent scores associated with the executable code; and disabling the executable code if the score is not equal to any of the subsequent scores" is taught in '774 (Col 3 lines 10-47, Col 5 lines 10-45, and Col 8 lines 1-10).

11. As per claim 9, "the method of claim 8, further comprising the steps of: notifying an owner of the executable code if disabled" is taught in '774 (Col 5 lines 35-43).

12. As per claim 10, "the method of claim 8, wherein the scores are the result of a checksum calculation" is taught in '774 (Col 3 lines 37-45).

13. As per claim 11, "the method of claim 8, wherein the subsequent scores are received Randomly" is taught in '774 (Col 5 lines 10-15).

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14. As per claim 12, "the method of claim 8, wherein the subsequent scores are received at one or more predetermined time intervals" is taught in '774 (Col 8 lines 1-10).

15. As per claim 13, "the method of claim 8, further comprising the steps of: removing the executable code if disabled from a memory of an operating system wherein the executable code resides" is taught in '774 (Col 5 lines 10-43).

16. As per claim 14, "the method of claim 8, further comprising the steps of: assisting in the loading of the executable code, if not disabled, to a memory of an operating system wherein the executable code resides" is taught in '774 (Col 3 lines 10-37).

17. As per claim 15, "the method of claim 8, further comprising the steps of: registering the executable code if not disabled; and recording a history if the executable code is disabled" is taught in '774 (Col 3 lines 25-37, and Col 5 lines 35-43).

18. As per claim 16, "a method of authenticating executable code resident in a memory having executable instructions, comprising the steps of: acquiring a score associated with an executable code which was established when the executable code was first loaded into a memory of an operating system; receiving a subsequent score on the executable code while the executable code is in the memory; and comparing the subsequent score to the score" is taught in '774 (Col 3 lines 10-45).

19. As per claim17, “the method of claim 16 further comprising the steps of: disabling the executable code while the executable code is in the memory when the subsequent score is not equal to the score” is taught in '774 (Col 5 lines 30-43).

20. As per claim18, ”the method of claim 16, further comprising the steps of: suspending one or more operations of the executable code while the executable code is executing in the memory when the subsequent score is not equal to the score” is taught in '774 (Col 8 lines 1-10).

21. As per claim 19, “the method of claim 16, wherein the subsequent score is received each time the executable code is initiated in the memory for an execution” is taught in '774 (Col 8-27).

22. As per claim 20, “the method of claim 16, reporting one or more system events and variables when the subsequent score is not equal to the score” is taught in '774 (Col 5 lines 35-43).

23. As per claim 21, “functional data used to validate executable code embodied in a computer readable medium, the data comprising: a first score associated with an executable code when the executable code is initially loaded into an operating system; and a second score associated with the executable code at a period of time subsequent

to when the executable code was initially loaded and operable to be compared with the first score to determine if the executable code has been altered since the initial load" is taught in '774 (Col 3 lines 10-45, and Col 5 lines 7-43).

24. As per claim 22, "A system for validating executable code, comprising: a scoring set of executable instruction operable to receive and record a score associated with an executable code when the code is initially loaded into a computer readable medium" is taught in '774 (Col 3 lines 10-45); and "a comparing set of executable instructions operable to receive a subsequent score associated with the code and to compare the score and the subsequent score to determine if the code has been altered" is taught in '774 (Col 5 lines 10-28, and Col 8 lines 1-10).

Conclusion

25. Any inquiry concerning this communication from the examiner should be directed to Linh Son whose telephone number is (571)-271-3856.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Kim Y. Vu can be reached at (571)-272-3859. The fax numbers for this group are (703)-872-9306 (official fax). Any inquiry of general nature or relating to the

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status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2100.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval PAIR.I system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PMR only. For more information about the PAIR system, see <http://pzs-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Linh LD Son

Patent Examiner

Linh LD Son
AU 2135